

ESTTA Tracking number: **ESTTA567740**

Filing date: **10/29/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding.	92057743
Applicant	Defendant Fiverr International Ltd.
Other Party	Plaintiff Gigz, Inc.
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

### **Motion for Suspension in View of Civil Proceeding With Consent**

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Fiverr International Ltd. hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Fiverr International Ltd. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Fiverr International Ltd. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,

/Sheldon H. Klein/

Sheldon H. Klein

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10/29/2013

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FIVERR INTERNATIONAL LTD., an Israeli corporation,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.
	:	
GIGZ, INC.	:	
a Delaware corporation,	:	
	:	<b>DEMAND FOR JURY TRIAL</b>
Defendant.	:	
	:	

**COMPLAINT FOR SERVICE MARK  
INFRINGEMENT, UNFAIR COMPETITION,  
DECEPTIVE TRADE PRACTICES, AND CYBERPIRACY**

Plaintiff Fiverr International Ltd., for its Complaint against Defendant Gigz, Inc., states and alleges as follows:

**NATURE OF THE CASE**

1. This is an action for service mark infringement, unfair competition, and cyberpiracy under the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*; service mark infringement and unfair competition under the common law of Delaware; and deceptive trade practices under Delaware’s Deceptive Trade Practices law, 6 *Del. C.* § 2532. Plaintiff seeks injunctive relief and monetary damages.

**THE PARTIES**

2. Plaintiff Fiverr International Ltd. (“Fiverr”) is an Israeli corporation, with an address of 12 HaOmanim Street, Tel Aviv, Israel 6789731.

3. Defendant Gigz, Inc. (“Gigz”) is a Delaware corporation, with an address of 2711 Centerville Road, Suite 400, Wilmington, Delaware.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this case under 15 U.S.C. §§ 1116(a), 1121, and 1125(d), and 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction over the Delaware law claims under 28 U.S.C. § 1367(a).

5. This Court has *in personam* jurisdiction over Defendant because Defendant is incorporated in this District; is domiciled in this District; and, on information and belief, conducts business in this District and is engaged in the acts giving rise to the claims alleged in this Complaint within this District.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendant is incorporated in this District; is domiciled in this District; and, on information and belief, conducts business in this District and is engaged in the acts giving rise to the claims alleged in this Complaint within this District.

### **BACKGROUND**

#### **The Fiverr Business and Marks**

7. Fiverr's web-based platform, [www.fiverr.com](http://www.fiverr.com), was established in February 2010, launching a global freelance marketplace with an emphasis on individual talent and creativity. The marketplace includes individuals who offer and purchase a large variety of services. Fiverr uses a number of service marks in connection with its freelance marketplace platform, including FIVERR®, GIG®, and GIGS®. This Complaint is primarily concerned with the GIG® and GIGS® service marks, which Fiverr has used in commerce that may be regulated by Congress since at least as early as February 17, 2010.

8. Fiverr filed an application to register each of the marks GIG® and GIGS® with the United States Patent and Trademark Office ("USPTO") on November 3, 2010. A federal

service mark registration for Fiverr's GIG® mark issued under Reg. No.4220143, on October 9, 2012. A federal service mark registration for Fiverr's GIGS® mark issued under Reg. No.4270491, on January 8, 2013. Both marks are registered in connection with the following services: "Operating on-line marketplaces for sellers of goods and/or services," in International Class 35. Copies of the certificates of registration for the GIG® and GIGS® marks are attached as Exhibits 1 and 2, respectively.

9. The concept of a website embodying this particular type of marketplace was conceived by Fiverr. The concept allows an individual to run a business from the comfort of his or her home, and appeals to students, stay-at-home parents, people with disabilities, and/or people who want to reach financial independence.

10. The marketplace operates as follows: A seller registers as a user on the fiverr.com website, and then lists a service that he or she will offer, called a GIG®. A buyer, who must also register as a user on the website, browses the offered GIGS® services and selects the service he or she would like to purchase. Buyers pay for the service through the website, and Fiverr retains a small portion of each payment. Once a service is completed, Fiverr transmits the seller's portion of the payment to his or her account.

11. Some examples of the very wide variety of services offered by sellers on fiverr.com under the GIG® and GIGS® service marks are: walking a dog, fixing a computer problem, providing a knitting pattern, designing a logo, making bracelets, providing a recipe, creating a marriage proposal, recording a voiceover, drawing a portrait, handing out flyers, creating a promotional video, writing a business plan, and developing an app.

12. Currently, the website fiverr.com includes millions of users from more than 200 countries. On any given day, the site contains over 3 million offers in the GIGS®

marketplace in 120 service categories. Thousands of new service offers are added daily. Fiverr sellers offer GIGS®-branded services for fees ranging from \$5 to \$500. On average, a new GIG® service is ordered every six seconds.

13. In order to identify the source, origin, and sponsorship of GIGS® service offers advertised on fiverr.com, and to distinguish the FIVERR® marketplace from copycat third party online service marketplaces that have arisen, Fiverr has extensively and continuously used and advertised its service marks in connection with its services, including, but not limited to, the GIG® and GIGS® marks, for more than three and a half years.

14. The GIG® and GIGS® service marks are inherently distinctive and well-known, and have acquired secondary meaning.

15. Fiverr has invested over \$20 million in order to develop its FIVERR® online marketplace, and in promoting the GIG® and GIGS® marks as source-identifiers for the marketplace. As a result of the extensive sales, advertising, and promotion of the GIG® and GIGS® service marks and the FIVERR® marketplace, the public has come to know and recognize them and to associate them exclusively with Fiverr. Thus, there is a great deal of valuable goodwill inherent in these marks.

**Defendant's Infringing Use of GIGZ and GIG, and Its Unsuccessful  
Attempt to Register GIGZ as a Service Mark**

16. Defendant Gigz operates a website in beta, [www.gigz.com](http://www.gigz.com), which is an obvious take-off on Fiverr's web-based marketplace for individuals to sell and buy a wide variety of services, such as walking a dog, fixing a computer, or providing knitting guidance, for a variety of fees.

17. In blatant disregard for Fiverr's senior service mark rights, on information and belief, Gigz or its agent obtained the internet domain name <gigz.com> on or about August 2012 and, as recently as June 6, 2013, renewed the domain name registration through February 23, 2016.

18. On information and belief, Gigz launched, in beta, its website linked to the <gigz.com> domain name, www.gigz.com, and also began using GIGZ as a service mark and trade name, on and in connection with the site, on or about August 2012 -- approximately two and a half years after Fiverr first began using GIG® and GIGS® as service marks, and nearly two years after Fiverr filed its applications to register GIG® and GIGS® with the USPTO.

19. On information and belief, long after Fiverr began using GIG® and GIGS® as service marks, and long after Fiverr filed its applications to register its marks with the USPTO, Gigz began using Fiverr's GIG® mark as a service mark in connection with Gigz's web-based marketplace for individuals to sell and buy a wide variety of services.

20. Gigz has also created a Delaware corporation, Gigz, Inc., and uses that name (with and without "Inc.") as a trade name.

21. Gigz's unauthorized acquisition, maintenance, and use of the <gigz.com> domain name, its unauthorized use of the marks GIGZ and GIG on its website, and its unauthorized use of the corporate and trade name Gigz, Inc. constitutes a commercial use in interstate commerce.

22. Gigz's acts complained of above were undertaken with the full knowledge of Fiverr's prior use and applications to register GIG® and GIGS®, and were thus willful in nature.

23. On October 22, 2012, Gigz filed an application with the USPTO to register the mark GIGZ.

24. The USPTO issued an office action on February 25, 2013, refusing registration of

GIGZ based on the likelihood of confusion with Fiverr's mark GIGS®. The Examining Attorney found similarity of the marks, similarity of the nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. Specifically, the Examining Attorney stated that "[t]he marks are nearly identical, varying only by the 'Z' in applicant's mark in place of the 'S'. The marks are essentially phonetic equivalents and thus sound similar." She also found that Fiverr's and Gigz's goods and services were "very closely related." Finally, the Examining Attorney determined that Gigz's goods and services "are used in the operation of an online marketplace," just like Fiverr's.

25. On August 22, 2013, without attempting to counter the refusal to register of the Examiner Attorney by arguing that GIGZ is not confusingly similar to GIGS®, Gigz filed with the USPTO's Trademark Trial and Appeal Board a Petition to Cancel Fiverr's GIG® and GIGS® service marks, alleging that said marks are merely descriptive or generic.

26. Gigz's use of the infringing marks GIGZ and GIG for services which are highly related to, and directly competitive with, the services Fiverr offers under the GIG® and GIGS® marks constitutes wrongful conduct that is knowing, intentional, and willful.

**COUNT I**  
**Federal Service Mark Infringement**

27. The allegations of paragraphs 1 through 26 above are incorporated herein by reference.

28. Pursuant to Sections 7 and 33 of the Lanham Act, 15 U.S.C. §§ 1057 and 1115, Fiverr's federal registrations and certificates of registration for GIG® and GIGS® constitute *prima facie* evidence of the validity of the marks and of the registration of the marks, of Fiverr's exclusive ownership of the marks, and of Fiverr's exclusive right to use the marks in commerce

in connection with the services specified in the registrations.

29. Pursuant to Section 7 of the Lanham Act, 15 U.S.C. § 1057, Fiverr's federal service mark applications for GIG® and GIGS®, which matured to registration, constitute constructive use of those marks, conferring a right of priority, nationwide in effect, in connection with all of the services in the registration, against Gigz. Further, Fiverr has priority of actual use in commerce of its marks over Gigz.

30. Defendant's use in commerce of the marks GIGZ and GIG and the corporate/trade name Gigz, Inc. to identify its competing business is likely to confuse or deceive the public into believing, contrary to fact, that Defendant's web business and corporate entity is licensed, sponsored, authorized, or otherwise approved by Fiverr or are in some other way connected or affiliated with Fiverr. Such use infringes Fiverr's exclusive rights in its registered GIG® and GIGS® marks under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

31. Defendant's acts were done knowingly and intentionally to cause confusion, or to cause mistake, or to deceive.

32. As a result of Defendant's infringement of the GIG® and GIGS® marks, Fiverr has suffered and is continuing to suffer irreparable injury, and has incurred and is continuing to incur monetary damage in an amount that has yet to be determined.

**COUNT II**  
**Common Law Service Mark Infringement**

33. The allegations of paragraphs 1 through 32 above are incorporated herein by reference.

34. Fiverr has used and is the owner of the GIG® and GIGS® marks in the State of Delaware.



35. The use in commerce, advertising, and promotion of its services by Defendant of the GIGZ and GIG marks and the corporate/trade name Gigz, Inc., which are confusingly similar to Fiverr's service marks and are used for services of substantially the same character, causes a likelihood of confusion, deception, and mistake, and constitutes service mark infringement in violation of the common law of Delaware.

36. Defendant has adopted, used, marked, and promoted its services in bad faith with an attempt to trade on Fiverr's reputation and goodwill.

37. Defendant's infringement is knowing, intentional, and willful.

38. As a result of Defendant's infringement of the GIG® and GIGS® marks, Fiverr has suffered and is continuing to suffer irreparable injury, and has incurred and is continuing to incur monetary damage in an amount that has yet to be determined.

**COUNT III**  
**Federal Unfair Competition**

39. The allegations of paragraphs 1 through 38 above are incorporated herein by reference.

40. The unauthorized use in commerce by Defendant of GIGZ, GIG, and Gigz, Inc., for services which are highly related to those of Fiverr, constitutes a false designation of origin of Defendant's services, which is likely to cause confusion, or to cause mistake, or to deceive the public as to the affiliation, connection, or association of Defendant's business with Fiverr's business, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

41. Defendant's acts were done knowingly and intentionally to cause confusion, or to cause mistake, or to deceive.

42. As a result of Defendant's infringement of the GIG® and GIGS® marks, Fiverr

has suffered and is continuing to suffer irreparable injury, and has incurred and is continuing to incur monetary damage in an amount that has yet to be determined.

**COUNT IV**  
**Common Law Unfair Competition**

43. The allegations of paragraphs 1 through 42 above are incorporated herein by reference.

44. The unauthorized use in commerce by Defendant of GIGZ, GIG, and Gigz, Inc., for the advertising and promotion of services which are highly related to those of Fiverr constitutes a false designation of origin of Defendant's services, which is likely to cause confusion, or to cause mistake, or to deceive the public as to the affiliation, connection, or association of Defendant's business with Fiverr's business, and permits Defendant's services to be passed off as Fiverr's services.

45. Defendant's use of GIGZ, GIG and Gigz, Inc. is likely to divert business from Fiverr to Defendant, causing damage to Fiverr's business representation, image, and goodwill.

46. Defendant's acts constitute unfair competition in violation of the common law of Delaware.

47. As a result of Defendant's infringement of the GIG® and GIGS® marks, Fiverr has suffered and is continuing to suffer irreparable injury, and has incurred and is continuing to incur monetary damage in an amount that has yet to be determined.

**COUNT V**  
**Delaware Deceptive Trade Practices**

48. The allegations of paragraphs 1 through 47 above are incorporated herein by reference.

49. The unauthorized use in the course of business by Defendant of GIGZ, GIG, and

Gigz, Inc., for the advertising and promotion of services which are highly related to those of Fiverr causes a likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services; causes a likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, Fiverr; and otherwise creates a likelihood of confusion or of misunderstanding.

50. Defendant's acts constitute deceptive trade practices in violation of 6 *Del. C.* § 2532.

51. Defendant's acts are knowing, intentional, and willful.

52. As a result of Defendant's infringement of the GIG® and GIGS® marks, Fiverr has suffered and is continuing to suffer irreparable injury, and has incurred and is continuing to incur monetary damage in an amount that has yet to be determined.

**COUNT VI**  
**Federal Cyberpiracy**

53. The allegations of paragraphs 1 through 52 above are incorporated herein by reference.

54. The GIG® and GIGS® service marks were distinctive long prior to Defendant's acquisition and renewal of the <gigz.com> domain name.

55. Defendant acquired, maintains and uses the <gigz.com> domain name without Fiverr's authorization, and with a bad faith intent to profit from Fiverr's GIG® and GIGS® service marks.

56. Defendant has no trademark rights in GIGZ or in <gigz.com>.

57. Defendant uses <gigz.com> in connection with a website from which Defendant profits or intends to profit.

58. Defendant intends to divert consumers seeking Fiverr's website to Defendant's website, which will harm the goodwill represented by Fiverr's GIG® and GIGS® service marks for Defendant's commercial gain, and with the intent to tarnish or disparage Fiverr's marks, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of Defendant's website.

59. The domain name <gigz.com> is confusingly similar to Fiverr's GIG® and GIGS® service marks.

60. Defendant's unauthorized registration, maintenance, and use in commerce of the <gigz.com> domain name constitutes cyberpiracy, and a violation of the Anticybersquatting Consumer Protection Act, Lanham Act Section 43(d); 15 U.S.C. § 1125(d).

61. Fiverr has suffered and is continuing to suffer irreparable injury, and has incurred and is continuing to incur monetary damage in an amount that has yet to be determined.

62. Fiverr is entitled to and seeks to have Defendant's registration of the <gigz.com> domain name immediately transferred to Fiverr.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Court:

A. Enter an order declaring that Plaintiff is the owner of all right, title, and interest in and to the service marks GIG® and GIGS®, and that said marks and the federal registrations therefor are valid and subsisting;

B. Enter an order declaring that Defendant's continued use of marks and a corporate/trade name which are confusingly similar to Plaintiff's GIG® and GIGS® service marks, including but not limited to GIGZ, GIG, and Gigz, Inc., is in violation of the provisions of the Lanham Act, 15 U.S.C. §§ 1114 and 1125, Delaware's Deceptive Trade Practices law, 6

*Del. C. § 2532*, and of the common law of Delaware;

C. Enter an order enjoining by preliminary and permanent injunction Defendant, and its officers, agents, servants, employees, attorneys, and all others in active concert or participation with them, from using GIGZ or Gigz, Inc., or the GIG® and GIGS® service marks, or any confusingly similar words, marks, trade names, corporate names, or domain names, from otherwise engaging in unfair competition with Plaintiff; and from otherwise engaging in deceptive trade practices;

D. Enter an order cancelling Defendant's rights to the <gigz.com> domain name and transferring that domain name to Plaintiff;

E. Enter an order requiring Defendant to deliver up for destruction all materials in its possession, custody, or control bearing GIGZ or Gigz, Inc., or the GIG® and GIGS® marks, or any other reproduction, counterfeit, copy, or colorable imitation of Plaintiff's marks, alone or in combination with other words, letters, or symbols, pursuant to Section 36 of the Lanham Act, 15 U.S.C. § 1118 and the common law of Delaware;

F. Award Plaintiff judgment against Defendant for the actual damages Plaintiff has sustained and/or the profits Defendant has derived as a result of its trademark infringement, or such damages as the Court deems just and proper, and treble them in accordance with Section 35 of the Lanham Act, 15 U.S.C. § 1117, Delaware's Deceptive Trade Practices law, 6 *Del. C. § 2533*, and the common law of Delaware;

G. Award Plaintiff prejudgment interest in accordance with Section 35 of the Lanham Act, 15 U.S.C. § 1117 and the common law of Delaware;

H. Award Plaintiff its costs and attorneys' fees incurred in connection with this action, pursuant to Section 35 of the Lanham Act, 15 U.S.C. § 1117, and Delaware's Deceptive

Trade Practices law, 6 *Del. C.* § 2533; and

- I. Award Plaintiff such other relief as this Court may deem just and proper.

**PLAINTIFF DEMANDS A TRIAL BY JURY OF ALL COUNTS**

Respectfully submitted,

Dated: October 18, 2013

/s/ Rex A. Donnelly  
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*Attorneys for Plaintiff*  
Fiverr International, Ltd.

# EXHIBIT 1

**United States of America**  
**United States Patent and Trademark Office**

**GIG**

**Reg. No. 4,220,143**

**Registered Oct. 9, 2012**

**Int. Cl.: 35**

**SERVICE MARK**

**PRINCIPAL REGISTER**

FIVERR INTERNATIONAL LTD. (ISRAEL CORPORATION)  
14 HAMELACHA STREET, BINA BLDG., FL. 2  
BINYAMINA, ISRAEL 30500

FOR: OPERATING ON-LINE MARKETPLACES FOR SELLERS OF GOODS AND/OR SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF ISRAEL REG. NO. 241110, DATED 4-4-2012, EXPIRES 10-4-2021.

SER. NO. 85-168,404, FILED 11-3-2010.

GIANCARLO CASTRO, EXAMINING ATTORNEY



*David J. Kybas*

Director of the United States Patent and Trademark Office



# EXHIBIT 2

**United States of America**  
**United States Patent and Trademark Office**

**GIGS**

**Reg. No. 4,270,491**

**Registered Jan. 8, 2013**

**Int. Cl.: 35**

**SERVICE MARK**

**PRINCIPAL REGISTER**

FIVERR INTERNATIONAL LTD. (ISRAEL CORPORATION)  
14 HAMELACHA STREET, BINA BLDG., FL. 2  
BINYAMINA, ISRAEL 30500

FOR: OPERATING ON-LINE MARKETPLACES FOR SELLERS OF GOODS AND/OR SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF ISRAEL REG. NO. 241112, DATED 4-4-2012, EXPIRES 10-4-2021.

SER. NO. 85-168,396, FILED 11-3-2010.

GIANCARLO CASTRO, EXAMINING ATTORNEY



*David J. Kyros*

Director of the United States Patent and Trademark Office

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

FIVERR INTERNATIONAL LTD.

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

RATNERPRESTIA

1007 Orange Street, Suite 1100, Wilmington, DE 19899

Telephone: 302-778-2500

**DEFENDANTS**

GIGZ, INC.

County of Residence of First Listed Defendant New Castle, DE  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. §§ 1051, 1116(a), 1121, and 1125(d), and 6 Del. C. § 2532.

Brief description of cause:

This is an action for service mark infringement, unfair competition, cyberpiracy, and deceptive trade practices.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**  
Injunction

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE 10/18/2013 SIGNATURE OF ATTORNEY OF RECORD **FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

# UNITED STATES DISTRICT COURT

for the  
District of Delaware

FIVERR INTERNATIONAL, LTD.

*Plaintiff*

v.

GIGZ, INC.

*Defendant*

Civil Action No.

13-1721

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Gigz, Inc.  
Registered Agent: Corporation Service  
Company  
2711 Centerville Road, Suite 400  
Wilmington, Delaware 19808

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

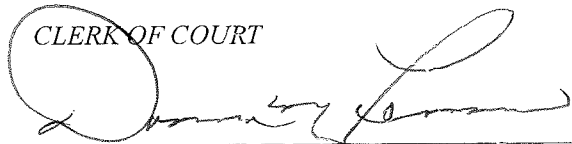
Rex A. Donnelly  
RatnerPrestia  
1007 Orange Street, Suite 1100  
Wilmington, Delaware 19899

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date:

10/21/2013

CLERK OF COURT



*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FIVERR INTERNATIONAL LTD.,  
an Israeli corporation,

Plaintiff,

V.

Civil Action No.

GIGZ, INC.

a Delaware corporation,

Defendant.

**PLAINTIFF FIVERR INTERNATIONAL LTD.'S CORPORATE DISCLOSURE**  
**STATEMENT PURSUANT TO FEDERAL RULE 7.1**

Pursuant to Federal Rule 7.1, Plaintiff Fiverr International Ltd. makes the following statement certifying that it has no parent corporations, and there is no publicly held company that owns ten (10) percent or more of its stock.

Respectfully submitted,

Dated: October 18, 2013

/s/ Rex A. Donnelly  
Rex A. Donnelly (DE Bar # 3492)  
Chris Blaszkowski (DE Bar # 5673)  
RATNERPRESTIA  
1007 Orange St.  
Suite 1100  
Wilmington, DE 19899  
Phone: 302-778-2500  
Facsimile: 302-778-2600  
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Eric L. Yaffe  
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Maisa Jean Frank  
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Facsimile: (202) 295-2250  
eric.yaffe@gpmlaw.com  
sheldon.klein@gpmlaw.com  
maisa.frank@gpmlaw.com

*Attorneys for Plaintiff*  
Fiverr International, Ltd.

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court \_\_\_\_\_ on the following Trademarks or ☐ Patents. ( ☐ the patent action involves 35 U.S.C. § 292.):

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

In the above—entitled case, the following decision has been rendered or judgement issued:

Copy 1—Upon initiation of action, mail this copy to Director      Copy 3—Upon termination of action, mail this copy to Director  
Copy 2—Upon filing document adding patent(s), mail this copy to Director      Copy 4—Case file copy



UNITED STATES DISTRICT COURT

DISTRICT OF DELAWARE

Fiverr International, Ltd.  
Plaintiff,

Court File Number  
13-1721

v.

AFFIDAVIT OF SERVICE

Gigz, Inc.

Defendant,

State of Delaware }  
County of New Castle } SS

KEVIN S. DUNN, being duly sworn, on oath says that on  
(Name of Server)

10 / 22 /2013 at 12:45 p    M  
(Date of Service) (Time of Service)

s(he) served the attached: Summons; Complaint; Exhibits 1-2; Civil Cover Sheet; Corporate  
Disclosure Statement

upon: Gigz, Inc.

therein named, personally at: Corp. Service Company  
2711 Centerville Road  
Suite 400  
Wilmington, DE 19808

by handing to and leaving with:


PAUL MATTHEWS - Service of Process Specialist  
(Name of the Person with whom the documents were left)

at Corp. Service Company, the Registered Agent for Gigz, Inc., expressly authorized to accept  
service of process for same, a true and correct copy thereof.

Subscribed and Sworn to before me

10 / 22 /2013.

  
(Signature of Server)

  
(Signature of Notary)

MELISSA HARMON  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires 12/29/2015

Serial # GRAPL3 124925 5100

Re: 301709

\* Service was completed by an independent contractor retained by Metro Legal Services, Inc.

Metro Legal Services, Inc.

330 2nd Avenue South, Suite 150, Minneapolis, MN 55401  
T (612) 332-0202 or (800) 488-8994 F (612) 332-5215